

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES SECURITIES AND	:
EXCHANGE COMMISSION,	:
	:
Plaintiff,	: <u>ORDER</u>
	:
-v.-	: 19 Civ. 4355 (VM) (GWG)
	:
COLLECTOR’S COFFEE INC., et al.,	:
	:
Defendants.	:
-----X	:

GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

With regard to defendant Mykalai Kontilai’s motion for reconsideration (Docket # 858) of the Court’s Order of March 15, 2021 (Docket # 836) (“the Order”), the Court has previously set forth the standards for such a motion. See SEC v. Collector’s Coffee Inc., 464 F. Supp. 3d 665, 667 (S.D.N.Y. 2020). The defendant’s motion contains a rehashing of arguments previously made and rejected, with an occasional citation to cases never before presented to the Court. None of these cases or the rehashed arguments alter the Court’s conclusions as set forth in the Order.

The only new matter presented relevant to the Order is the citation to a declaration regarding alleged prosecutorial misconduct (Docket # 821-5). Defendant failed to bring this declaration to the Court’s attention before the briefing schedule was complete on the original motion, even though the declaration was available to defendant before that date. The suggestion that the Court erred by failing to consider as part of the adjudication of the order to show cause a document filed as part of the briefing of a different motion is frivolous. Moreover, the declaration is irrelevant to the issue on which the Order turned: namely, how any alleged improper motives of the SEC prejudiced Kontilai in conducting his defense. Defendant’s brief fails to address this question other than making generic statements regarding the law governing the striking of affirmative defenses.

The remainder of the motion (pp. 5-7) inexplicably contains argument related to another motion pending before the Court (Docket # 820). This argument does not address the issues relevant to the Order.

The motion for reconsideration (Docket # 858) is denied.

SO ORDERED.

Dated: March 30, 2021
New York, NY



GABRIEL W. CORENSTEIN
United States Magistrate Judge